1. INTRODUCTION

In October 2006, Ernest Ndukwe, the Executive Vice Chairman (EVC) of the Nigerian Communications Commission (NCC) stated: *"Nigeria no doubt has cause to celebrate five years of tremendous growth in telecom lines ... "*.[1] Reviewing the Nigerian telecommunications (telecoms) sector, an international telecoms analyst firm opined that *"the transformation of the Nigerian telecommunications landscape since the licensing of three Global Standard for Mobile (GSM) networks in 2001 and a fourth one in 2002 has been nothing short of astounding."*[2] Continuing, the same firm reported: *"the launch of digital mobile services in 2001 heralded an unprecedented boom in Nigeria's communication market with staggering mobile growth rates of 292% in 2001, 369% in 2002, the highest annual growth in the world followed by 100% growth in 2003 and 180% in 2004, passing the 10 million subscriber mark in 2005 ... In early 2006 there were an estimated 20 million subscribers in Nigeria, making it the second largest mobile market on the continent after South Africa and one of the fastest growing.With current rates continuing, Nigeria would surpass South Africa during 2006 in terms of subscriber numbers. Spending on mobile telephony represents around 6% to 8% of household income in Nigeria against 1.3%*

---

[1] Ernest Ndukwe, *An Overview of the Nigerian Telecommunications Environment and Successful Initiatives to Promote Communications Development*, presentation delivered at the Computer Telecommunication and Office Equipment Exhibition (CTO) on 10 October 2006, available at http://www.ncc.gov.ng/index4.htm (speeches), last visited on *3/12/2007*.

[2] Paul Budde Communication Pty Ltd (Budde), Nigeria - *Mobile Market, Overview and Statistics,* 1, (April 2006), downloadable from www.securities.com (ISI Emerging Markets, a Euromoney Institutional Investor Company) visited on *12/20/2006*.

elsewhere in Africa."[3]

As at December 2006, Nigerian telephone subscribers had risen to over 30 million.[4] The NCC reportedly put the total number of mobile and fixed lines in Nigeria as of 31 January 2007, at over 34 million.[5] According to the recently released Fourth Quarter 2006 report of the National Economic Intelligence Committee (NEIC), which recorded a 5.63% growth in Nigeria's real Gross Domestic Product (GDP) in 2006, the telecoms sub-sector, with 32% increase, accounted for the highest contributions to the

---

[3] Budde, *ibid,* 2. See also Sola Fanawopo, *Giant of Africa, Nigeria to Outgrow South Africa's Mobile Market by 2007, The Sun* 10/25/2006, http://www.sunnewsonline.com/webpages/features/suntech/2006/oct/25/suntech-25-10-2006-001.htm. Quoting two international telecoms research firms (Informa Telecoms & Media's World Cellular Information Service and Gartner), the writer stales that though South Africa (SA) had a 7 year GSM head start on Nigeria, the latter is set to become the continental mobile leader in 2007 because of its population (130 million estimated) whilst SA's market is nearing saturation. Nigeria's mobile penetration rate (at September 2006) is 19%, compared to SA's 77%. Furthermore, Nigeria is perceived as having a more competitive mobile GSM market, and clearly the African leader in the CDMA mobile market. According to the writer, *Informa* predicts Nigerian mobile subscriptions of about 44 million compared to SA's 40 million by end of 2007, whilst *Gartner* projects 39.949 million and 28.892 million connections for Nigeria and SA respectively by the end of 2007. According to leading Nigerian telecoms research firm, eShekels (citing ITU sources), Nigeria was actually the fastest growing mobile market globally, averaging 131% annual growth between 1998 and 2003, compared to: Africa (61%), Asia (38%), Europe (35%), World (32%), Americas (24%) and Oceania (24%). See Fola Odufuwa, *Nigerian Telecoms Industry: Market Review,* a presentation to British Trade Delegation, Lagos, June 2005 (Slide No. 13), /http://www.eshekels.com/resources.html, visited on 11/12/2006.

[4] Efem Nkanga, *Mubadala Gets Unified Access Service License, This Day, 1/21/2007,* http://www.thisdayonline.com/nview.php?id=68482#, visited on 1/21/2007. The impact of the liberalization has been far reaching on the economy. For example, it is estimated that over 1 million jobs have been created pursuant to Nigeria's liberalization of its telecoms sector. Whilst about 10,000 people are estimated to be directly employed by the mobile network (GSM) operators, no fewer than a million persons are indirectly employed in the industry, whether as equipment vendors, advertising and public relations consultants, recharge card distributors, retailers and phone booth operators. See Onwuka Nzeshi, *GSM Created 1m Jobs, Says NCC, This Day,* 10/11/2006, (http://www.tllisdayonline.com/nview.php?id=60361), visited on 10/12/2006. According to *This Day,* these data were contained in NCC's EVC Ernest Ndukwe's address to the "*Connecting Rural Communities Africa Conference*" organized by the Federal Ministry of Communications and the Commonwealth Telecommunications Organization, at Abuja, Nigeria on *10/9/2006.*

[5] All Africa.com, Nigeria: *SA Firm Acquires Multilinks for $280m,* http://allafrica.com/stories/200703240053.html, visited on 4/10/2007, based on related article (not sighted by author), by Andy Ekugo in *This Day, 3/24/2007.* Based on most current figures on NCC website, there were 26.360 million mobile phone subscribers in Nigeria as at August 2006, up from 18.587 million in December 2005. Total mobile and fixed lines reflects an increase of teledensity (based on a 120 million population), from 16.27% (19.810 million lines) in December 2005 to 23.29% (29. 949 million lines) in August 2006. NCC, *Subscriber Data, Telecoms Subscriber Information as at August 2006, ,* last visited on 4/12/2007.

growth in the real GDP. [6]

How did we get here? This paper will analyze the impact of liberalization on the Nigerian telecoms market by reviewing the operating and regulatory landscape pre-liberalization, discuss the liberalization initiatives both from overall (countrywide) and sectoral perspectives, the way operators and the market have responded, and prospects for future performance, as well as lessons for other sectors.

The paper is organized as follows: *Section 1* prefaces discussion of the issues to be covered herein in the form of introduction. *Section 2* provides brief background information on Nigeria and traces the history of the Nigerian telecoms sector - from monopoly to deregulation, just before the advent of the current democratic administration in May 1999. *Section 3* discusses the current landscape, starting with the administration's policy reforms exemplified by the National Policy on Telecommunications, (the Policy), which sought to bring transparency, structure and order to the telecoms sector based on its recognition that it is a veritable tool for national development and attracting foreign direct investment (FDI) to Nigeria. Particularly instructive was the Federal Government (FG)'s resolve to institute a 'new deal' by cancelling licences arbitrarily awarded by the previous military government, facilitating a world acclaimed GSM licensing auction in 2001, granting incentives to ease operators' start-up challenges, and enacting a new NCC Act in 2003. I will also consider how NCC, the sector regulator, performs its role as well as the interplay of other regulators like the Central Bank of Nigeria (CBN) and the National Office for Technology Acquisition & Promotion (NOTAP).

Section 4 focuses on the performance of operators, reviewing amongst others, their entry/start-up issues, responsiveness to the reforms and regulation, their financing transactions, and service quality delivery, as well as analyse market

---

[6] Compared with agriculture which contributed 7.17%, manufacturing sector 9.71%, wholesale and retail 13.73%; cumulatively there was a 24% rise in non-oil export in 2006. Ihuoma Chiedozie, *Telecoms Drives 5.63 per cent GDP Growth - NEIC, The Punch, 4/12/2007,* http://www.punc1mg.com/Articl.aspx?theartic=Art2007041201510, visited on 4/12/2007.

competitiveness. The section concludes with the efforts to privatize First National Operator (FNO) and former dominant player, Nigerian Telecommunications Limited (NITEL). *Section 5* is a critique of the impact of the GSM mobile subsector on the telecoms sector, the economy and the Nigerian landscape, generally. It paints the picture, of a dead market come to life, detailing for example, how competition is inspiring operators' creativity to gain and maintain market share. Today, mobile telecoms offer a strategic platform for banking services. *Section 5* also shows that from a socio-cultural perspective, mobile telephony has become such an integral part of the lives of most subscribers that many wonder in retrospect how they survived before the advent of GSM.

Section 6 on country competitiveness, underscores the strategic importance of the telecoms sector. It reviews performance of the sector since the advent of reforms relative to African and global indices, how Nigeria has become 'a beautiful bride' for international telecoms service providers - operators, vendors, consultants, *et cetera.* For instance, the results of Nigerian operations have become critical to the overall performance of multinational operators. It is no longer news that MTN International is currently the leading African mobile operator as a result of its Nigerian operations, which enabled it overtake the erstwhile continental leader, Vodacom - whose position is unlikely to change as long as it does not gain a foothold in Nigeria.[7] Celtel's African profile has also increased dramatically with its acquisition of a majority stake in VMobile in May 2006. I will examine the relationship of post-liberalization investment trends and the stimulating effect of sector performance on the economy.

The essential hypothesis of this paper is that sectoral reforms have boosted Nigeria's country competitiveness in the global telecoms industry - the transformation of Nigerian telecoms sector since 1999/2000 is a model of how an enabling sector environment could attract local and foreign investment and increase the country's

[7] Vodacom's 50% parent company, Telkom of South Africa recently announced acquisition of 75% stake in a leading Nigerian private telecom operator (PTO), Multilinks Limited.

competitiveness for foreign capital. Furthermore, I argue that the telecoms liberalization model can be replicated with necessary amendments in other infrastructural sectors like power, water, transport, especially roads and railways, to attract FDI and record multiplier effects on the economy. Power, for instance, is a critical driver of any economy. However, inadequate and irregular power supply continues to be one of the most daunting challenges confronting telecoms operators in Nigeria. This effectively hinders their performance, with negative spillover effects on tariffs and service quality, which in turn affects the productivity of businesses and individuals, cumulatively translating into lower national productivity.

Underscoring my thesis is the fact that despite full liberalization of the Nigeria's investment environment since 1995, [8] and the availability of tax incentives prior to 1995, there was minimal or nil foreign investment in telecoms, and the country's teledensity was ridiculously low.[9] And Nigeria has always had a huge market because of its population.[10] It is therefore easy to conclude that the present boom is directly attributable to telecoms reforms, which commenced in 1999. The slight improvements in Nigeria's ranking on global competitiveness as well as FDI inflow ratings during the present democratic dispensation also suggests that civil rule has been beneficial to some extent, in that regard.

---

[8] This was achieved by among others, enactment of the Nigerian Investment Promotion Commission (NIPC) Act, Cap. N117, LFN 2004 and the Foreign Exchange (Monitoring and Miscellaneous Provisions) (FEMMP) Act, Cap. F34, LFN 2004. The NIPC and FEMMP Acts were originally Decrees 16 and 17 of 1995. Regarding the NIPC Act, it has been opined that: *"the Decree differs from its predecessors essentially by its 'promotional' rather than 'control' approach to foreign investment regulation. In general therefore the Decree has brought down the existing controls, which hitherto posed a significant threat to foreign investment in Nigeria."* See Oluwole Obayomi, *Nigeria's New Investment Laws,* 11 J. BUS. LAW 593, 594 (November 1997).

[9] Regarding the pre-reform status of Nigerian telecoms, an informed commentator stated: *"Nigeria has long had a reputation for one of Africa's most underserved telecommunications markets with a history of poor fixed line infrastructure and unreliable services. Even today, most Nigerians have never made a phone call.... The country's national carrier since 1993, Nigerian Telecommunications Ltd, (NITEL) has a woefully derelict public network that is incapable of meeting demand ... NITEL's waiting list for a phone line is officially three million and the waiting period for a phone up to 10 years ... "* Budde, *Overview of Nigeria's Telecommunications Market* in NIGERIA - KEY STATISTICS, TELECOM MARKET AND REGULATORY OVERVIEWS, 3 to 4 (February 2006).

[10] Currently 140 million people, according to provisional 1996 Census figures released in 4th Quarter 2006 by the National Population Commission (NPC).

I will also highlight current status of other sectoral reforms as well as their potential impact on improving country competitiveness, and the imperative of speeding up reforms in these other sectors, by the new administration, upon assumption of office on 29 May 2007. Currently, in addition to telecoms, the banking sector[11] and pension reforms[12] have been implemented to the point where their positive impact is already being felt in the economy.[13] Insurance sector reforms are

---

[11] Despite initial misgivings, Nigeria's banking recapitalization/consolidation exercise, which commenced in July 2004 and ended on 31 December 2005 has been widely acclaimed. The program saw Nigeria's 89 banks consolidate into 25 banks with minimum capital of ₦25 billion each (approximately US$196.85 million at US$l: ₦I27 - the exchange rate used through out this paper). This was a massive increase from the erstwhile ₦2 billion (US$15.75 million) threshold capital. More funds have raised the prospects of increased lending to the real sector of the economy, as well as reduction in interest rates, especially as post consolidation competition has intensified. The architect of the exercise and Governor of the CBN Professor Charles Soludo, was named by *The Banker's Magazine* (a subsidiary of Financial Times of London), as the Global Central Banker of the Year for 2006 *(Soludo Scoops Highest Award:* http://goliath.ecnext.com/coms2/summaIY 0199-5245825 ITM), as well as the 2006 African Central Banker *(Soludo Named 2006 African Central Banker,* http://www.accessbankplc.com/index.cfm?newsID=151), following the exercise. The international financial markets has increasingly been showing interest in, and investing in Nigerian banks. For example, in a trendsetting transaction, GTB did a US$300 million Eurobond issue, which was oversubscribed by US$22I million: *Guaranty Trust Bank Issues $300Mn Eurobond,*http://porta1.gtbplc.com/portal/index.pl?iid=35055#38792. In the same vein, 5 foreign financial institutions (Vectis Capital, EMP Africa Fund II, AlG Global Emerging Markets Fund II, L.P., Rand Merchant Bank and RICO) have agreed to invest ₦20.25 Billion (US$161 million) in Intercontinental Bank as convertible preference shares. *Foreign Institutions Invest ₦20.25 Billion (US$161million) in Intercontinental Bank,* http://www. intercontinentalbankplc.com/news' roomasp?NEWS ID=24; 2.html. Other post consolidation events include increased international expansion with opening of offshore subsidiaries/cross-border acquisitions, change of business models to financial supermarkets especially with acquisition of insurance companies, aggressive branch expansion and retail banking strategy - helping to meet government goals for reaching the under or 'un-banked' segment of the population, etc. See Remi Emeka Njoku, *Banks Given Free Rein on Second Phase of Consolidation, 3/8/2007,* http://www.businessdayonline.com/?c=45&a=11815, visited on 3/8/2007.

[12] For a discussion of pension reforms, see Temitope Mosunmola Makinwa, *Nigerian Pension Reform (2004): How Far From Achieving Its Objectives,* unpublished Harvard Law School (HLS) LLM Paper (2005): "*Over the last 25 years, Nigeria's Pay-As-You-Go defined public pension system has progressively declined and could no longer meet its obligations… In 2004, the pension obligations of the Federal Government was estimated to be ₦2 trillion (US$15.75 billion) and growing..To address the problems related to the pension system, the National Assembly passed the Pension Reform Act (PRA) in June 2004."* Makinwa, *ibid,* 1. The PRA established uniform contributory scheme for both the public and private sectors of the economy, also repealed the 1979 Pensions Act, Cap. 347, Laws of the Federation (LFN), 1990.

[13] See for instance, *The Verdict According to Olusegun Adeniyi, Obasanjo @ 70, This Day, 3/7/2007,* http://www.thisdayonline.com/nview.php?id=72319,visited on 3/17/2007: *"Yet it is not for nothing that almost all the presidential aspirants say they would 'deepen' it or 'reform' the reform. They are only stating the obvious ... I doubt if anyone would jettison the current efforts to redirect the economy. For instance, it is inconceivable that the next president, whoever he is, would dare to revert to the era of discretionary allocation of oil blocks in the petroleum sector. The next president would also not contemplate reversing the consolidation of the banking industry by re-licensing the dead banks. Institutions like EFCC and ICPC can also only be strengthened. The unbundling of the power sector and other economic package tied to the reforms are also here to stay .... He has put in a lot of money in power projects ... while investing heavily in LNG such that before the end of the decade, Nigeria would be making more money from gas than oil... The philosophical underpinning of Obasanjo's intervention in the last eight years can therefore be broken into two strands. One, that Nigeria should earn more income in the future. Two, that the income so earned should be better utilized for the common good of the*

also underway.[14] But revitalizing and modernizing the power sector, rail, marine and road transportation has been quite challenging.[15] At the moment, the power sector shows that sectoral reform requires more than legislative enactment and institutional set-up of a regulator pursuant to the new regulatory regime. Whilst it may be argued that the telecom industry is unlike the power sector because GSM was a novelty when introduced in 2001, yet there are lessons that could be applied in Nigerian mobile telecoms experience to its power sector.[16]

people through the oversight of institutions that would ensure transparency and accountability and could bring sanctions to bear on deviants."

[14] Taking a leaf from the recently concluded banking sector consolidation, the National Insurance Commission (NAlCOM) imposed new capitalization requirements for the industry, with a 16 month deadline of 2/28/2007, to: ₦2 billion (US$15.7 5 million) for life; ₦3 billion (US$23.62 million) for non-life; and ₦10 billion (US$78.74 million) for re-insurance companies, respectively. The goal was to evolve an insurance industry with greater depth that would boost local retention capacity, for example in the oil and gas industry where foreign insurers earn the huge premiums. This exercise resulted in substantial merger activity - by the recapitalization cut-off date, erstwhile 223 insurance companies (including 4 reinsurers) had consolidated into a total of 71 companies: 43 non-life, 26 life insurance companies and two reinsurance houses. See for example, *Consolidation Saga: And the Winners Are..., The Daily Champion, 3/7/2007, http://www.championnewspapers.com/daily%20 champion%20files/insurance/article I.htm,* visited on 317/2007; Adelanwa Bamgboye, *Insurance Operators Now Equipped for Energy Sector, Daily Trust 3/7/2007,* accessed through http://allafrica.com/stories/200703070729.html on 3/17/2007. See section 6 for further discussion on outstanding issues on the insurance reforms.

[15] On railways, see the Economic Intelligence Unit, *Nigeria: Country Profile 2007, 19: "until recently the railway system was neglected, with minimal services on the 3,500 km network. In August 2006 the President... announced a bold 25 year modernization and expansion plan, and in October ... signed a US$8.3 billion contract ... for the construction of a 1,315 km standard gauge, double track railway line from Lagos to Kano, as the first phase of the modernization plan."* The absence of functional railway system or even well developed and safe water transportation is believed to have put too much pressure on Nigerian roads, resulting in rapid deterioration of the most frequently traveled routes. This is aggravated by longstanding practice of awarding construction or rehabilitation contracts to well connected firms who end up not doing a good job. The President was once quoted, earlier in his second term, as saying *"I am ashamed of what our federal roads have become."* And that was after massive expenditure on the road network. *Opinion: Campaign Promises: Did PDP Deliver, The News, 3/26/2007, http://www.thenewsng.com/modules/ news/article.php?storyid=2499*. Concerning aviation, a rash of plane crashes within the past two years have given Nigerian airspace some notoriety. Nigeria has got a new national carrier, Virgin Nigeria, a private sector joint venture with the Virgin Group while other local airlines have been licensed to undertake international routes, although most of them are yet to commence services. Government recently announced conclusion of a recapitalization exercise designed to enhance operating standards - operators that were unable to meet the new capital requirements have been grounded. New entrant, Arik Air has ordered seven new aircraft from Boeing, reportedly Nigeria's first new commercial jets in over twenty-five years: *Arik Air Announce Launch of Nigerian Carrier's Widebody Fleet Power,* http://www.boeing.com/news/releases/2007/g2/070426e nr.html, visited on 5/11/2007. *The phased concessioning of the ports have started, the most notable being the Apapa port in Lagos, as well as Calabar. The involvement of the private sector in running the ports has been acknowledged as resulting in increased port traffic and general productivity.* Martins Nwamle, *Concessioning Biggest Success of FG-NPA Scribe, Christopher Borha, The Sun, 2/1/2007, http://www.sunnewsonline.com/webpages/features/money/2007/feb/01/money-I-02-2007-003.htm*.

[16] The Electricity Power Sector Reform Act (EPSRA) was only signed into law in March 2005, arising from misunderstanding between the President and the National Assembly. The plank for the law had been laid with conclusion of consultants' work on the legal and regulatory review of the power sector and several consultative

Section 7 provides a snapshot of the developments that has resulted in the transformation of the telecoms market and affirms that future market growth is sustainable. This is consistent with new investments being planned or recently made by telecoms companies, continued interest to enter Nigeria by new players as exemplified by Telkom's acquisition of majority stake in Multilinks, etc.

Telecoms, banking and pension reforms have shown how reforms can unlock value in the economy. The challenge is to achieve the same feat in other critical sectors, and the President-elect's reported intention to declare a state of emergency in the power sector on assumption of office signals a step in the right direction. However, the promise of restoring stable power within six months of assumption of office which this outgoing administration made in 1999 is still fresh in popular memory as the light situation progressively deteriorated.

In conclusion, it is clear that Vision 2020 - Nigeria becoming one of the top twenty global economies by 2020 - is not realizable without substantial foreign investment. Developing Nigeria's infrastructure will not only provide a ready avenue for FDI opportunities, but would ultimately help to increase the country's competitiveness. As President Obasanjo reportedly stated in a July 1999 speech: *"we cannot be talking about creating a conducive environment for foreign investments if the performance of our transport, telecommunication and energy sectors remain dismal and epileptic."*[17]

---

workshops held on the draft bill, which was sent to the National Assembly in 2001. After lengthy delay at the National Assembly, the President refused to sign the initial bill till the issues about powers of the President to appoint members of the industry regulator *vis a vis* oversight of that function by the Senate, was resolved. In the meantime, the power situation continued to worsen. High hopes that all the problem required was legislative enactment has since been dashed as the power situation has not improved. For some detailed pre-enactment background, see generally, Afolabi Elebiju & Sina Olumide, *The Legal* & *Regulatory Framework for Nigerian Power Sector, 2* OIL & GAS ENERGY LAW INTELLIGENCE 1, (February 2004). As a matter of fact during run-up to the May 2007 elections, the Vice President claimed that the government had lost time because it pursued rehabilitation of ailing plants rather than build new ones, losing valuable time when it was later realized that efforts should have been on building new plants (the FG awarded contracts for five power plants in May 2005). And late April, the President ordered the Bureau for Public Enterprises to stop the privatisation strategy that had been approved in the reform law - sale of unbundled public utility, (National Electric Power Authority) (NEPA, which itself had transformed into the Power Holding Company of Nigeria, (PHCN)) successor entities which have already been created. This *volte face* caused panic amongst followers of the industry.

[17] Excerpted on NCC website: NCC, *Overview of Industry Performance,* http://www.ncc.gov.ng/index5.htm. visited on 12/15/2006. The author could not locate the main speech itself.